

**CLAIM AMENDMENTS****1-38. (CANCELLED)**

**39. (PREVIOUSLY PRESENTED)** A method for determining patency of the airway of a patient during the delivery of continuous positive airway pressure treatment, the method comprising the steps of:

measuring respiratory air flow from a patient;

determining airway patency by an analysis of said measured air flow to detect the presence of cardiogenic air flow; and

delivering airway treatment pressure based upon said determination of airway patency.

**40. (PREVIOUSLY PRESENTED)** The method of claim 39 wherein said airway treatment pressure is increased if said cardiogenic air flow is not present.

**41. (PREVIOUSLY PRESENTED)** The method of claim 40 wherein said airway treatment pressure is decreased or unchanged if said cardiogenic air flow is present.

**42. (PREVIOUSLY PRESENTED)** The method of claim 41 further comprising the step of filtering said respiratory airflow to reject unwanted components of respiration.

**43. (PREVIOUSLY PRESENTED)** The method of claim 39 wherein said analysis includes performing a fourier transform on said measured air flow.

44. (PREVIOUSLY PRESENTED)      The method of claim 43 further comprising the step of rate determining the patient's cardiac rate, and said rate determining step includes detecting a component of said air flow at the cardiac rate.

45. (PREVIOUSLY PRESENTED)      An apparatus for determining patency of an airway of a patient, the apparatus comprising:

a pressure transducer for generating an air flow signal representative of respiratory air flow from the patient; and

a processor programmed to determine if the airway is patent by an analysis of said air flow signal to detect the presence of cardiogenic air flow.

46. (PREVIOUSLY PRESENTED)      The apparatus of claim 45 further comprising a turbine controllable to provide a supply of breathable gas at a desired pressure elevated above atmospheric wherein said desired pressure is increased if said cardiogenic air flow is not present.

47. (PREVIOUSLY PRESENTED)      The apparatus of claim 46 wherein said desired pressure is decreased or unchanged if said cardiogenic air flow is present.

48. (PREVIOUSLY PRESENTED)      The apparatus of claim 47 wherein said analysis includes performing a Fourier transform on said measured air flow.

49 - 54. (CANCELLED)